



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:  
WQ-16J

**JAN 23 2015**

John Linc Stine, Commissioner  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

Dear Mr. Stine:

In a letter dated August 20, 2014, the Minnesota Pollution Control Agency (MPCA) transmitted to the U.S. Environmental Protection Agency amendments to portions of Minn. R. 7050 and 7053 that were published in the Minnesota State Register on August 4, 2014. The amendments relate to eutrophication of rivers and streams, Mississippi River pools and Lake Pepin; changing Minnesota's turbidity standard to a standard for total dissolved solids; and clarifying other aspects of Minn. R. 7050. EPA also received an August 25, 2014 letter from the MPCA's legal counsel certifying in accordance with 40 CFR 131.6(e) that the amendments were duly adopted pursuant to Minnesota law.

By this letter, EPA approves in accordance with section 303(c)(3) of the Clean Water Act (CWA) and 40 CFR 131.21(a)(1) the following new or revised water quality standards that were included in Minnesota's amendments:

Minn. R. 7050.0150, Subp. 4; Minn. R. 7050.0220, Subps. 3a, 4a, 5a, 6a and 7; and  
Minn. R. 7050.0221, Subps. 2, 2a, 2b, 3, 3a, 3b, 4, 4a and 4b.

EPA is not taking action on the following aspects of Minnesota's amendments because they are not new or revised water quality standards:

Minn. R. 7050.0150, Subps. 5, 5a, 5b and 5c; and Minn. R. 7053.0205, Subps. 7 and 9a.

The basis for EPA's approval and for EPA's conclusion that the remaining aspects of Minnesota's amendments are not new or revised water quality standards is set forth in the enclosed document entitled "Basis for EPA's Approval of Minnesota's New and Revised Water Quality Standards Pertaining to Eutrophication and Other Matters in Accordance with Section 303(c) of the Clean Water Act."

A key component of Minnesota's eutrophication standard for rivers and streams are criteria that consist of values for total phosphorus (TP), and four "response variables" (i.e., sestonic chlorophyll *a*, diel dissolved oxygen (DO) flux, BOD<sub>5</sub> and pH) that are set forth in tables in Minnesota's amendment for three nutrient ecoregions, and narrative provisions that define how the values in the tables apply in relation to each other. The tables and narrative provisions provide that eutrophication criteria are met if the TP value is exceeded but none of the response variable values (i.e., sestonic chlorophyll *a*, diel DO flux, BOD<sub>5</sub> and pH) are exceeded or if the TP value is not exceeded; and they are not met if the TP value is exceeded and any of the response variable values is also exceeded. MPCA explained in a November 5, 2014 letter to EPA that, where the applicable TP value is exceeded and no response variable values are exceeded and not all response variables can be evaluated, MPCA would consider this to be insufficient information to determine attainment because there is the potential that an unsampled response variable could also be exceeded. MPCA further explained in that letter that, for assessment purposes (e.g., MPCA's Integrated Report), MPCA intends to place any such waters on a "study list" and collect data on chlorophyll *a* and other response variables (e.g., continuously monitored pH and DO) to conclude assessment. The study list would be made publicly available on MPCA's website. EPA understands that MPCA will look for the soonest opportunity to collect the information needed to complete the assessment.

EPA's approval of Minnesota's new or revised water quality standards is subject to completion of section 7 consultation under the Endangered Species Act (ESA), as described below. As required under section 7 of the ESA and federal regulations at 50 CFR Part 402, EPA evaluated whether approval of these standards would affect federally-listed threatened or endangered species or designated critical habitat. As described in the biological evaluation, EPA determined that the action may affect, but is not likely to adversely affect, one or more listed aquatic, aquatic-dependent, or wetland species. Further, EPA determined that the action will not destroy or adversely modify designated critical habitat.

To date, EPA has initiated, but not completed, consultation with U.S. Fish and Wildlife Service on the new or revised standards. EPA has determined that this approval action does not violate section 7(d) of the ESA, which prohibits irreversible or irretrievable commitments of resources that have the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives. EPA concluded, as described in the record, that there are not impacts of concern during the interim period until consultation is completed.

EPA applauds Minnesota for adoption of these water quality standards. This is a major accomplishment that will allow MPCA to continue as a national leader in addressing nutrients. MPCA has a robust monitoring program and a strategy to collect extensive data to implement both the lakes and rivers/streams eutrophication standards. EPA looks forward to working with MPCA on developing acceptable assessment and permitting procedures. If you have any

questions regarding this matter, please contact Linda Holst, Chief of the Water Quality Branch,  
at (312) 886-6758.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tinka G. Hyde".

Tinka G. Hyde  
Director, Water Division

cc: Rebecca Flood

Enclosure